

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6690 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

MANGABHAI SHANKARBHAI VASAVA

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner
MR.NEEGAM SHUKLA, AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 04/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 27.4.1996 detaining the petitioner under the provisions of the Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 28.4.1996 and since then the petitioner is under detention lodged at Central Prison, Ahmedabad.

The present Special Civil Application was filed on 2.8.1996. Rule returnable for 27.9.1996 was issued but so far neither any reply has been filed nor the affidavit of the Detaining Authority has been filed.

The learned counsel for the petitioner has challenged the detention order on more than one ground but stress was laid on the point that the allegation and the material on the basis of which the detention order has been passed against the petitioner do not make out the case of public order and at the most it can be said to be a case of the breach of law and order. The strong reliance has been placed on the Supreme Court decision in the case of M.J.Shaikh Vs. M.M.Mehta, reported in 1995(2) GLR Pg.1268.

I find that the contention of the learned counsel for the petitioner is fully covered by Mustakmiya's Case (Supra). The detention order cannot be said to be based on the grounds germane to the breach of the public order. It is the case of breach of law and order only. Accordingly the detention order cannot be sustained in the eye of law.

Accordingly this Special Civil Application is allowed. The impugned order of detention dated 27.4.1996 passed by the District Magistrate, Bharuch is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
